

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

RICARDO QUINTERO-DIARTE,
08654-063

PETITIONER

VERSUS

CAUSE NO. 3:25cv93-TSL-MTP

WARDEN, YAZOO CITY LOW

RESPONDENT

MEMORANDUM OPINION AND ORDER OF DISMISSAL

This matter is before the court sua sponte. Pro se petitioner Ricardo Quintero-Diarte is incarcerated with the Bureau of Prisons ("BOP"). He filed this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 seeking immediate placement into pre-release custody. The court has considered and liberally construed the pleadings. As set forth below, this case is dismissed.

BACKGROUND

Quintero-Diarte is serving a sentence handed down from the United States District Court for the Western District of Missouri. He is currently serving that term at the Federal Correctional Institution in Yazoo City, Mississippi.

On February 6, 2025, petitioner filed this action, specifically invoking § 2241. He argues that the First Step Act entitles him to serve the remainder of his sentence in either home confinement or a Residential Reentry Center ("RRC") but

that the BOP will not transfer him to either form of pre-release custody because he has an ICE detainer. He asks this court to transfer him to pre-release custody immediately.

DISCUSSION

Quintero-Diarte's petition is not cognizable under § 2241. As to suits filed by prisoners, "[w]hich statutory vehicle to use depends on the nature of the claim and the type of relief requested, the instructive principle being that challenges to the fact or duration of confinement are properly brought under habeas, while challenges to the conditions of confinement" may be a civil rights action. Poree v. Collins, 866 F.3d 235, 243 (5th Cir. 2017) (footnotes omitted). The Fifth Circuit has adopted the following "bright-line rule" for determining whether a prisoner's claim may be brought under § 2241: "[I]f a favorable determination of the prisoner's claim would not automatically entitle him to accelerated release, then the proper vehicle is a civil rights suit." Melot v. Bergami, 970 F.3d 596, 599 (5th Cir. 2020) (citing Carson v. Johnson, 112 F.3d 818, 820-21 (5th Cir. 1997)).

In his petition, Quintero-Diarte asserts he is eligible for some form of pre-release custody, either home confinement or placement in an RRC. He challenges only where he should serve

his sentence, not whether or how long he should serve. His claim does not concern the cause of his detention, and success will not automatically entitle him to accelerated release from his sentence. Accordingly, his claim is not cognizable as a § 2241 habeas action. See Melot, 970 F.3d at 599 (prisoner's habeas petition seeking home confinement under First Step Act program for eligible elderly offenders "involve[d] his conditions of confinement and [was] more properly brought" as a civil rights action); Robinson v. Baysore, Civ. Action No. 3:23-cv-489-HTW-LGI, 2024 WL 5466090 at *2 (S.D. Miss. Jul. 26, 2024) (R&R) (holding that prisoner's petition was not cognizable under § 2241 because "[a] finding in [his] favor would effect a change in his confinement, i.e., from institutional custody to residential custody, not its duration. He still must serve the entirety of his sentence."), adopted 2025 WL 429796 (S.D. Miss. Feb. 7, 2025); Rodriguez v. Berkebile, Civ. Action No. 5:17-cv-13-DCB-MTP, 2018 WL 6411353 at *1 (S.D. Miss. Dec. 6, 2018) (dismissing § 2241 petition requesting placement in an RRC because petitioner was not seeking immediate release from custody but a transfer to an RRC and therefore, the proper vehicle for his claims was a civil rights suit).

Rather than liberally construe this action as a civil

rights case, it will be dismissed without prejudice. See
Lineberry v. United States, 380 F. App'x 452, 453 (5th Cir. June
8, 2010).

IT IS THEREFORE ORDERED AND ADJUDGED that, for the reasons
stated above, this case is **DISMISSED WITHOUT PREJUDICE**. A
separate final judgment shall issue pursuant to Federal Rule of
Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 8th day of May, 2025.

/s/ Tom S. Lee

UNITED STATES DISTRICT JUDGE